



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

CITY COUNCIL

R. Steve Tumlin, Mayor
Stuart Fleming, Ward 1
Grif Chalfant, Ward 2
Johnny Walker, Ward 3
G. A. (Andy) Morris, Ward 4
Anthony Coleman, Ward 5
Michelle Cooper Kelly, Ward 6
Philip M. Goldstein, Ward 7

Friday, February 14, 2014

12:00 PM

Council Chamber

This meeting was rescheduled from Wednesday, February 12, 2014.

Presiding: R. Steve Tumlin, Mayor

Present: Stuart Fleming, Grif Chalfant, Johnny Walker, G. A. (Andy) Morris, Anthony Coleman, Michelle Cooper Kelly and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 12:12 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Kelly to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin asked everyone to remain standing for the Pledge of Allegiance.

PRESENTATIONS:

20140169 Certificate of Achievement

The University of Georgia and the Georgia Municipal Association certify that Grif Chalfant, Ward 2 Council Member and Anthony Coleman, Ward 5 Council Member, completed The Harold F. Holz Municipal Training Institute for Elected Officials and met the requirements prescribed by the Board of the Georgia

Municipal Training Institute January 26, 2014 for the respective levels of certification.

Presented

20140056 Swearing-in of Associate Judge for Municipal Court

Swearing-in of Cheryl Richardson, Esq., as an Associate Judge for the Municipal Court of Marietta.

Not Present

PROCLAMATIONS:

20140189 We Love the Marietta Team Day

A Proclamation commending all of the Marietta Team for their extraordinary service to the Citizens of Marietta during the winter conditions of 2014.

Presented

**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE
MAYOR, COUNCIL AND/OR CITY MANAGER:**

SCHEDULED APPEARANCES:

20140146 Georgia Symphony Orchestra

Mr. Christopher Clark with the Georgia Symphony Orchestra will speak about his organization. The Georgia Symphony Orchestra will be moving to the Marietta High School this summer.

Not Present

UNSCHEDULED APPEARANCES:

Larry Wills, who resides on Oakmont Drive, spoke regarding agenda item 20140150 that deals with possible amendments to the bylaws for the Marietta Redevelopment.

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Pro tem Johnny Walker presided over this portion of the meeting, briefly explaining the consent agenda process.

-under Finance/Investment: Agenda item 20140073, Black History Month, was added to the consent agenda to remove this matter from the agenda.

-under Public Works: Agenda item 20131341, Radar Speed Signs at North Marietta Parkway, was added to the consent agenda and amended to read, "Motion to approve adding two radar speed signs on North Marietta Parkway with the locations to be determine by staff." This item should also show Council member Morris voting against.

-under Other Business: Agenda item 20140157, was added to the consent agenda with a note Council members Coleman and Goldstein voting against BLW agenda item 20140154, Settlement Agreement and General Release.

-under Other Business: Agenda item 20140143, remains on the consent agenda with a note Council members Coleman and Goldstein voting against BLW agenda item 20140156 Review and approval of the February 10, 2014 special meeting minutes.

City Attorney Doug Haynie noted that there were no items on the consent agenda requiring a public hearing.

A motion was made by Council member Kelly, seconded by Council member Coleman, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 – 0 – 0

Approved

with the following exceptions:

*Council member Goldstein abstaining on agenda items 20140097 and 20140164.
Council member Morris voting against agenda item 20131341.*

* 20140140

Special Meeting - January 6, 2014

Review and approval of the January 6, 2014 special meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

MINUTES:*** 20140141 Regular Meeting - January 8, 2014**

Review and approval of the January 8, 2014 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

*** 20140142 Special Meeting - January 30, 2014**

Review and approval of the January 30, 2014 special meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:***** 20140074 Reappointment to BLW Board**

Reappointment of Terry Lee to the Board of Lights and Water (BLW) Board for a four (4) year term expiring March 10, 2018.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

ORDINANCES:**20131513 Z2013-33 LMG Capital, LLC 2042 Airport Court**

Z2013-33 [REZONING & SPECIAL LAND USE PERMIT] LMG CAPITAL, LLC requests Rezoning and a Special Land Use Permit for property located in Land Lot 06600, District 17, Parcel 0070, 2nd Section, Marietta, Cobb County, Georgia and being known as 2042 Airport Court, from LI (Light Industrial) to HI (Heavy Industrial) with a Special Land Use Permit for this property so it may be used as a transfer facility for paints, oils, and other similar wastes (no solid waste). Ward 7A.

The following stipulations are incorporated as part of the zoning:

1. That the zoning remain LI (Light Industrial) with a Special Land Use Permit for this property so it may be used as a transfer facility for the transfer of paints, oils, and solvents (no solid waste).
2. The applicant must comply with all rules and regulations pertaining to the handling of hazardous materials.
3. Letter dated February 10, 2014, from J. Kevin Moore, Moore, Ingram, Johnson & Steele, LLP, to Russell J. Roth, Planning & Zoning Manager.

Council member Goldstein disclosed that Kevin Moore and/or his firm have done work for him, entities he owns and/or family members, etc.

Development Services Director Brian Binzer presented information regarding the request for a Special Land Use Permit for property located at 2042 Airport Court. Mr. Binzer also summarized the criteria for which a Special Land Use Permit should be considered.

City Attorney Doug Haynie opened the public hearing. Mr. Haynie then explained the rules of order and swore in those wishing to speak.

Kevin Moore, attorney for the applicant, explained that the property would be used to transfer 55 gallon drums containing paints, oils and other similar wastes from one truck to another. The waste would then be removed from the facility for proper disposal. Mr. Moore also summarized that stipulations agreed to by the applicant.

Mr. Tony Rogowski, who lives on Denards Mill, expressed concern regarding the proposed use for the property.

The public hearing was closed.

Discussion was held regarding the hazardous materials that would be handled at the facility and safety measures put into place to mitigate any spills. Council requested that additional information be provided regarding safety protocols as they relate to containment of accidental spills and possible contamination.

There was general agreement that this matter be tabled.

A motion was made by Council member Goldstein, seconded by Council member Coleman, that this matter be Tabled. The motion carried by the following vote:

Vote: 7 – 0 – 0

Tabled

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

- * **20140053** **Denial of Claim**
- Denial of the claim of Ronald Reed.
- This Matter was Approved to Deny Claim on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved to Deny Claim**
-
- * **20140054** **Denial of Claim**
- Denial of the claim of Kamari Arnold.
- This Matter was Approved to Deny Claim on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved to Deny Claim**
-
- * **20140055** **Denial of Claim**
- Denial of the claim of Erik Marshel.
- This Matter was Approved to Deny Claim on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved to Deny Claim**

CITY MANAGER'S REPORT:**MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: G. A. (Andy) Morris, Chairperson**

- * **20131431** **Administrative Plan Revision**
- Motion approving revisions to the Housing Choice Voucher Program Administrative Plan.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 – 0 – 0** **Approved**
-
- * **20140083** **Reallocation of CDBG Slum and Blight Funds**
- Approval of a Resolution reallocating \$237,380 in unspent FFY'11 and FFY'12 CDBG Slum and Blight project funds to Marietta Parks and Recreation for

Birney Street Park, Grambling Street Park and Blackwell Park, and to Housing Rehabilitation Service Delivery.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

2. Finance/Investment: Stuart Fleming, Chairperson

*** 20140073 Black History Month**

Motion approving an expenditure for Black History Month not to exceed \$50.00 as requested by Council Member Coleman.

Motion to remove this matter from the agenda.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

*** 20130651 Historic District Monument Sign**

20130651 Motion to approve the Kennesaw Avenue Historic District marker for the Phase I column only as shown on the attached design dated February 5, 2014; and at a location to be determined by the Director of Public Works.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20131467 Revised Detailed Landscape Plan for Cambridge Walk**

Motion to approve the revised detailed landscape plan, as prepared by Mondo Land Planning & Design, LLC and dated December 9, 2013, for Cambridge Walk. Minor changes concerning tree species may be approved by the City Arborist.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

4. Parks, Recreation and Tourism: Michelle Cooper Kelly, Chairperson*** 20140069 2014 Street Closure Requests**

Motion approving the closure of various streets throughout 2014 to accommodate the Glover Park Concert Series, Taste of Marietta, May-retta Daze, Fourth in the Park Parade and Festival, Art in the Park, Marietta StreetFest, Marietta Reads, Harvest Square Arts and Crafts Show, and MUST Ministries Gobble Jog as shown in the attached document items 20140069 A-I.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20140097 Whole Hawg Happenin BBQ Festival**

Motion approving the closure of East Park Square on Saturday, September 27, 2014 at 8:00 a.m. until 11 p.m., Sunday, September 29, 2013; and, the closure of North, West and South Park Square, Lawrence St. (Waddell to the Square), Church St (Hansell to the Square), Mill Street (Railroad Tracks to the Square), Whitlock (Railroad Tracks to the Square), Cherokee Street (Hansell to the Square), Roswell Street (Waddell to the Square), Powder Springs Street (Anderson to the Square), and Atlanta Street (Anderson to the Square) on Sunday September 28, 2014 from 2 a.m. to 11 p.m., for the purpose of conducting the Whole Hawg Happenin' BBQ and Music Festival, stipulating that 50% percent of the net proceeds will be shared equally with the Cobb/Marietta Museum of Art, Strand Theatre, Marietta Museum of History, and Gone With the Wind Museum, with a minimum donation of one-thousand dollars (\$1000.00) to each organization. Further, the event is approved as a city sanctioned event per City Code Section 10-4-070 (G) and the consumption of beer, wine, and liquor in Glover Park and the sale of beer and wine adjacent to Glover Park is hereby permitted under City Code Section 10-4-070 (E).

This Matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 1

Approved

Abstaining: Philip M. Goldstein

5. Personnel/Insurance: Johnny Walker, Chairperson*** 20131511 Appointed Officials Annual Reviews/Compensation**

[Ord 7717](#)

Motion approving Appointed Officials Reviews and Compensation.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20140050 Employment Agreement - Mayor's Assistant**

Motion approving the amended 2014 Employment Agreement for the mayor's assistant. The new salary will be retroactive to January 1, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20140044 Employment Contract - City Manager William F. Bruton, Jr.**

Motion to approve the employment contract with City Manager William F. Bruton, Jr., for the period of February 12, 2014 - December 31, 2017.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20140082 FY2014 City/BLW Allocation Chart**

Motion approving amendments to the FY 2014 City/BLW Position Allocation Chart in order to correct the designation of Economic Development Project Manager II.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20140100 Marietta Redevelopment Corporation (MRC) Board of Directors**

Reappointment of Ray Buday, Ron Francis, Terry Lee and George Bentley to the Marietta Redevelopment Corporation (MRC) Board of Directors for a two (2) year term that expires April 10, 2016.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

6. Public Safety Committee: Anthony Coleman, Chairperson*** 20140070 Standard Operating Procedures Revisions - Marietta Police Department**

Motion approving revisions to the following Standard Operating Procedures for the Marietta Police Department : A025 Electronic Control Weapon, A036 Ride Along Program, A041 Organizational Structure, A042 Awards and Commendations, A054 Assignments, A060 Evidence and Property Maintenance, A070 Departmental Forms and Reports, A071 Crime Analysis, A085 Promotions, A090 Court Procedures, C022 School Resource Officer Program, C050 Crime Prevention, E014 Explosive Breaching, P010 Patrol Operations, P048 Vehicle Impounds, P049 Traffic Enforcement, P055 Selective Traffic Enforcement Program, S045 Crime Interdiction Unit, S046 Asset Forfeiture, and S050 Honor Guard.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

7. Public Works Committee: Grif Chalfant, Chairperson*** 20131341 Radar Speed Signs at North Marietta Parkway**

Motion to approve adding two radar speed signs on North Marietta Parkway as requested by Council Member Coleman.

Motion to approve adding two radar speed signs on North Marietta Parkway with the locations to be determine by staff.

This Matter was Approved as Amended on the Consent Agenda.

Vote: 6 – 1 – 0

Approved as Amended

Voting Against: Andy Morris

*** 20140075 2014 GDOT Gateway Grant Submission**

Motion to approve Resolutions and Memorandum of Understanding for the GDOT Gateway grant applications for the referenced projects.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

OTHER BUSINESS:

* **20140159** **184 Woods Drive**

Motion authorizing acquisition of the right of way and easements at 184 Woods Drive from Lorenzo Woods for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$1,700.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* 20140147 GMA 2014 Annual Convention

Motion approving travel and training expenses for the Mayor and Council members who wish to attend the Georgia Municipal Association (GMA) 2013 Annual Convention in Savannah, GA June 20 - 24, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* 20140148 GMA Voting Delegates

Motion to appoint Grif Chalfant as voting delegate and Andy Morris as alternate voting delegate for the 2014 GMA Business Meeting being held during the GMA Annual Convention Monday, June 23, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20140170** **155, 165 Montgomery Street & 77 & 87 Harold Street**

Motion to revise the stipulations originally approved as conditions of zoning for zoning case #Z2011-09 (20110516) dated August 10, 2011. This revision will eliminate stipulation #6, which read: “The houses will be LEED [Leadership in Energy and Environmental Design] certified.”

All other previous conditions will remain in effect for the four (4) lot development, previously identified as 155 Montgomery Street, but now subdivided into lots identified as 155 Montgomery Street, 165 Montgomery Street, 77 Harold Street and 87 Harold Street. The following shall constitute the revised list of stipulations that are in effect for this development.

1. The existing 8 ft. white picket privacy fence currently located along a portion of the western (Drake/Panetta) property line will be extended along the entire western property to the right of way of Montgomery Street. Along the western property A new 6 ft. aluminum picket fence, as shown in the attached photo, shall be constructed along the entire northern (Yustat/Drake) property line to the right of way of Harold Street. A 6 ft. wooden privacy fence will also be erected along the northern boundary of the property at 87 Harold Street (see attached photo).
2. Applicant will meet with Public Works staff to determine if a retention/detention pond is necessary. If deemed necessary, it will be located away from the northwestern corner of the property, if possible. If changes need to occur, this matter will be discussed between the Mr. Drake, Yustats, Mr. Panetta, and the City of Marietta Public Works Departments. However, compliance with all City and State regulations is required.
3. The garages will be in compliance with all City of Marietta codes; and each garage will have similar color and façade material as the principle structure.
4. One row of trees will be planted along the northern and western property lines. This buffer will consist of a single row of trees of a minimum of 2" caliber and will include crape myrtles and bald cypress trees. Due to the mix of tree species within the buffer, the city arborist will determine spacing requirements.
5. The developer will hire an arborist to determine the health of all remaining trees and the impact on the remaining trees from the proposed plans. The developer will follow the recommendation of the arborist as well as meet the current tree ordinance. The City Arborist shall review every tree 12 inches or greater, where there is no conflict with a new structure and the tree is determined to be healthy, and shall incorporate best practices for the tree save areas prior to and during land disturbance activities.
6. The houses will be constructed in compliance with all codes.
7. The houses that will be built will be similar to the attached plans by George Busch, Architect A.I.A, for the Knox Resident, and dated 01.28.14 or similar one of the attached plans (see attached renderings):
 - a. Ansel
 - b. Henry David
 - c. Hudson
 - d. Dillard
 - e. Watkins
 - f. Emmerson
 - g. Hayek House
 - h. Gifford
 - i. Hampton Roads
8. The square footage of the homes will be a minimum of 1800 square feet.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20140158 180 Woods Drive**

Motion authorizing acquisition of the right of way and easements at 180 Woods Drive from Colleen Parker for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$2,000.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20140159 184 Woods Drive**

Motion authorizing acquisition of the right of way and easements at 184 Woods Drive from Lorenzo Woods for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$1,700.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20140160 111 N. Fairground Street**

Motion authorizing acquisition of the entire property at 111 N. Fairground Street from Richard Roberts for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$44,000.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

*** 20140161 68 Black Street**

Motion authorizing acquisition of the entire property at 68 Black Street from Estrella and Associates Inc. for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$95,000.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20140162 585 Lawrence Street**

Motion authorizing acquisition of the right of way and easements at 585 Lawrence Street from Cornelius Savage for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$1,500.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20140163 65 N. Fairground Street**

Motion authorizing acquisition of the right of way and easements at 65 N. Fairground Street from Charlie Haley for the purpose of constructing the Fairground Street Improvements Project - Roswell Street to Rigby Street in exchange for \$15,610.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0

Approved

* **20140164 165 N. Fairground Street**

Motion authorizing acquisition of the right of way and easements at 165 N. Fairground Street from PAFOS, LLC for the purpose of constructing the Fairground Street Improvements Project- from Roswell Street to Rigby Street in exchange for \$9,990.00 with stipulation as listed below.

1. If fence is removed it is to be replaced at no charge.

Council member Goldstein disclosed that he does not have any ownership in property at 165 N Fairground Street, but may have a tenant that has some dealings with the property.

This Matter was Approved on the Consent Agenda.

Vote: 6 – 0 – 1

Approved

Abstaining: Philip M. Goldstein

* **20140165 1950 & 1990 Roswell Road**

Motion authorizing acquisition of the easements at 1950 and 1990 Roswell Road from Sope Creek Phase IV, LLC for the purpose of constructing Greenbriar Parkway Storm Drainage Repair Project in exchange for \$10,000.00.

* **20140166** **453 Guilford Circle**

Motion authorizing acquisition of the right of way and easements at 453 Guilford Circle from Dean J & Susan Adair Gendron for the purpose of constructing the Greenbriar Parkway Storm Drainage Repair Project in exchange for \$1,567.50.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

*** 20140167 455 Guilford Circle**

Motion authorizing acceptance of the donation of Temporary Construction Easement on the property at 455 Guilford Circle from William and Ann Burlas for the purpose of constructing Greenbriar Parkway Storm Drainage Remediation Project.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20140168** **780 Franklin Road**

Motion authorizing acquisition of the right of way and easements at 780 Franklin Road from SJ Georgia Investor, LLC for the purpose of constructing the Franklin Road Improvements - From Twin Brooks to Las Colinas Apartments in exchange for \$3,000.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20140157** **BLW Actions of the February 10, 2014 Special Called Meeting**

Review and approval of the February 10, 2014 actions and minutes of the Marietta Board of Lights and Water Special Called Meeting.

Council members Coleman and Goldstein voting against BLW agenda item 20140154, Settlement Agreement and General Release.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 **Approved**

* **20140150 Marietta Redevelopment Corporation**

Motion requesting that the Board of Directors of the Marietta Redevelopment Corporation amend its By-Laws to remove appointments of the MRC members from approval by the City Council, to change so that the MRC determines who serves on the MRC Board and remove approval of the bylaws changes from the City Council. Such amendments to its By-Laws are subject to the approval by the Mayor and Council of the City of Marietta and shall be submitted back to the City Council for review.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

* **20140143 BLW Actions of the February 10, 2014**

Review and approval of the February 10, 2014 actions and minutes of the Marietta Board of Lights and Water.

Council members Coleman and Goldstein voting against BLW agenda item 20140156 Review and approval of the February 10, 2014 special meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 – 0 – 0 Approved

UNSCHEDULED APPEARANCES:

Larry Wills, who resides on Oakmont Drive, spoke regarding agenda item 20140044, Employment Contract - City Manager.

ADJOURNMENT:

The meeting was adjourned at 1:04 p.m.

Date Approved: March 12, 2014

R. Steve Tumlin, Mayor Tumlin

Attest: _____
Stephanie Guy, City Clerk